

# Court Enjoins HUAC

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TEN CENTS

## on Viet-Foe Probe

### But Defiant Panel Won't Halt Hearing

#### Judge's Order Jolts Powers-Separation Base of Government

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A Federal judge here jolted the separation-of-powers basis of the Federal Government yesterday by ordering a House committee to cancel a scheduled hearing.

The court move was against the House Committee of Un-American Activities (HUAC), which promptly said it would defy the order. And the Justice Department said it would file a petition to set aside the order as soon as possible to avoid a collision between two of the three branches of the Federal Government.

District Court Judge Howard F. Corcoran set off this chain of events when he issued a 10-day restraining order prohibiting HUAC from holding a hearing this morning to question critics of the Vietnam war. The order also forbade enforcement of subpoenas issued to compel the appearance of two witnesses.

The order also set in motion

machinery to convene a three-judge court to decide whether HUAC is constitutional.

Corcoran's order raised one of those large and fundamental questions that Government traditionally has tried to avoid—how far can one of the three coequal and independent branches of government go in imposing its will upon another.

Speaker of the House John W. McCormack told newsmen: "The action of the court presents very serious and challenging questions to the inde-

See ENJOIN, A2, Col. 4

pendence of the Legislative Branch in obtaining information on which to formulate legislation—which it is charged to do under the Constitution.

#### Direct Challenge Seen

"If the Judicial Branch could enjoin one committee," McCormack added, "it would enjoin any other committee. That would be a direct challenge to the constitutional independence, duties and prerogatives of Congress as a legislative body. It would destroy the effectiveness of Congress and lead to judicial control of government."

Rep. Joe Pool (D-Tex.), chairman of the HUAC subcommittee that scheduled the hearing, was given a standing ovation by the House when he announced he would hold the hearing anyway.

Pool later told newsmen he would go to jail, if necessary, to uphold the right of Congress to conduct hearings. "I'll stay in jail until hell freezes over, if

necessary," he said. "I think it's my duty to the boys fighting in Vietnam in the fox-holes."

The only order comparable to Corcoran's that attorneys could recall was one issued 10 years ago by a visiting judge to stop distribution of a Senate handbook on communism. The order was promptly cancelled by another district court judge after a hearing.

Corcoran, 60, is a brother of Thomas (Tommy the Cork) Corcoran, Washington fixture since he worked for President Franklin D. Roosevelt in the early New Deal days. He has served on the court about a year.

#### Suit Filed by ACLU

The order resulted from a suit filed yesterday morning by the American Civil Liberties Union. It challenged the constitutionality of the law creating HUAC, contending that its broad and vaguely defined powers to investigate "un-American" activities have a repressive effect on freedom of speech, assembly, association and press.

Today's hearing was scheduled on a bill making it a crime to interfere with troop movements, distribute propaganda affecting troop morale or provide aid to hostile powers.

Vietnam war critics Allen M. Krebs and Walter D. K. Teague 3d were subpoenaed to appear. Krebs is a social psychologist and president of the Free School in New York City. Teague is chairman of the U.S. Committee to aid the National Liberation Front

(Vietcong) of South Vietnam.

The ACLU filed suit specifically in their behalf but also for all others "similarly situated." The Committee had subpoenaed 13 war critics but had not made public names of the others.

William M. Kunster, ACLU lawyer who argued the case, was stunned by his victory. "This is the first time I know of in American history that a court has enjoined legislative action," he said. His opponent, Assistant U.S. Attorney Joseph M. Hannon, recalled the order, quickly overruled, 10 years ago.

#### Sees Rights Abridged

Corcoran's order is only temporary, giving a special court time to consider the constitutional questions raised.

ACLU argued before Corcoran that if it showed its case was not "patently frivolous," he should issue the restrain-

ing order. Hannon countered that ACLU was asking the court to "enjoin the national legislature" and was complaining of the abridgement of rights before it occurred.

Corcoran noted in the order, which he read from the bench, that though the Supreme Court upheld the constitutionality of HUAC seven years ago, it has more recently accepted for review cases raising similar issues.

The judge also noted that he

is limited by the U.S. Court of Appeals here, which is prone to find litigable controversy when there is "possible—not necessarily probable—and certainly not actual—threat to First Amendment rights."

Therefore, said Corcoran, he "must of necessity find the presence of a case and controversy in this instance where subpoenas have been issued and the witnesses are subject to process."